

WORK ASSIGNMENT 05-07

1. **WORK ASSIGNMENT TITLE:** Programmatic Environmental Impact Statement (PEIS) to Minimize the Environmental Impact of Mountaintop Removal/Valley Fill Mining Operations in the Appalachia Coalfields

2. **PERIOD OF PERFORMANCE:**

Effective date: June 1, 2000

Completion date: August 31, 2000

3. **EPA CONTRACT PROJECT OFFICER:**

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4. **BACKGROUND**

Over the last decade, the nature and extent of coal mining operations in Appalachia has changed significantly. Increasingly, individual surface mines larger than 3,000 acres have been proposed, and technology has enabled machines to remove the tops of mountains (mountaintop removal), with excess overburden material typically disposed into adjacent stream corridors (valley fills). In some instances, valleys of up to two miles long have been completely filled, covering perennial streams, wetlands, and tracts of prime upland wildlife habitat. Cumulatively, tens of thousands of acres are believed to have been effected by these operations. Further, the steep terrain in the Appalachian coalfields, where most of this coal mining activity occurs, is believed to offer few economically feasible disposal alternatives for the excess overburden and mining spoils.

Recognizing that Appalachian surface mining projects are growing in number and scale, it has become incumbent upon Federal and State agencies to ensure that relevant regulations, policies, procedures, and guidance adequately consider the potential individual and cumulative impacts that may result from these larger scale projects. To do this, the Office of Surface Mining (OSM), the U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (Corps), the U.S. Fish

and Wildlife Service (FWS), and the West Virginia Department of Environmental Protection (WVDEP) have agreed to prepare a joint voluntary Programmatic Environmental Impact Statement (PEIS) that will examine agency policies, guidance, and decision-making processes in order to determine whether they can and do minimize, to the maximum extent practicable, adverse environmental effects from mountaintop mining operations and the disposal of excess spoil in valley fills. Other interested Appalachian coalfield states have also been invited to participate in the development of this PEIS.

The agencies undertaking preparation of this voluntary PEIS implement federal and state laws with which mountaintop mining operations and associated discharges to the waters of the U.S. must comply. OSM is responsible for the national administration of the Surface Mining Control and Reclamation Act (SMCRA), and has delegated the SMCRA regulatory functions to the State of West Virginia for surface mining operations in the State. Other Appalachian coalfield states (except Tennessee) also implement delegated SMCRA authorities. The discharge of fill material into U.S. waters is regulated under Section 404 of the Clean Water Act, with permit responsibility administered by the Corps, under Section 404 regulations issued by both the Corps and EPA. Other discharges to U.S. waters are subject to Section 402 of the Clean Water Act administered nationally by EPA with authority for the program delegated to West Virginia and other Appalachian coalfield states. Mountaintop mining operators must also comply with the Endangered Species Act, administered by the FWS. In addition, the Fish and Wildlife Coordination Act (FWCA) pertains to federally-permitted, constructed, or licensed water development projects and land development projects that affect any water body. Whenever OSM, the Corps or EPA authorizes an action within the scope of the FWCA, they are required to consult with the FWS, and counterpart state agencies, to obtain recommendations on ways to mitigate adverse effects on fish and wildlife resources. As a signatory to a recent court settlement, West Virginia is participating with the federal agencies on the interagency workgroup for this project. Other interested Appalachian coalfield states with similar permitting and regulatory authorities have also been invited to participate in the workgroup and to assist with the development of this PEIS.

To address the concerns about mountaintop mining and valley fills, the agencies will consider potential revisions to relevant regulations, policies, and guidance that would minimize the potential for adverse individual and cumulative impacts from these mining operations. The PEIS will provide information that will help the agencies improve the permitting process to protect water quality and minimize impacts to other environmental resources; it will examine how regulations of the agencies can be better coordinated; and it will consider information on the following: the efficacy of stream restoration; the viability of reclaimed streams compared to natural waters; the impact that filled valleys have on aquatic life, wildlife and nearby residents; the biological and habitat analyses that should be done before, during, and after mining; practicable alternatives for in-stream placement of excess overburden; measures to minimize stream filling to the maximum extent practicable; and the effectiveness of mitigation and reclamation measures. In addition, federal and state agencies have become increasingly concerned over the lack of comprehensive data regarding the cumulative effects of valley fill operations, and have initiated a number of studies to address these data gaps. Accurately describing and quantifying the extent and nature of direct, secondary, and cumulative impacts related to valley fills and associated mining practices will be a specific focus area within the PEIS.

This PEIS will complement recent efforts to address the issues of mountaintop mining and valley

fills. For example, OSM recently completed and issued a draft oversight report entitled "An Evaluation of Approximate Original Contour and Postmining Land Use in West Virginia". Also during 1998, the Governor of West Virginia established a Governor's Task Force, which held public inquiries and evaluated the impacts of mountaintop mining operations on the economy, the environment, and the people of that State. Its report was issued in December 1998. To supplement these efforts, the agencies will also conduct technical symposia and undertake technical studies and field work in support of this project. The contractor will incorporate the findings of these and other ongoing studies identified during the scoping process into the PEIS as appropriate and relevant. These studies will be undertaken simultaneously with the regulatory review process described above to confirm or refute hypotheses concerning current regulatory strengths and weaknesses, and to make recommendations for improvement when deficiencies are identified. The synthesis of information from these multiple studies and reviews will form the base level of information from which recommendations will be made in the PEIS.

5. PURPOSE AND OBJECTIVE

The draft PEIS document has been under development since the Spring of 1999 under previously issued Work Assignment 04-07. The purpose of this Work Assignment is to provide guidance and direction to the contractor to finalize the draft PEIS document.

6. STATEMENT OF WORK

The contractor is responsible for gathering all of the information necessary for preparation of the written materials as described in the following Tasks. As described in the Tasks, other sources of information may be provided by the workgroup or others, through the PO, during later stages of PEIS development.

In all communications, all contractor personnel shall immediately identify themselves as contractors of EPA and shall not represent themselves in any way as employees of EPA. When in meetings with other persons, contractor personnel shall wear identification denoting themselves as contractors.

The documentation to be prepared by the contractor shall include appropriate text, maps, pictures, and data documenting the assigned Task. The documentation shall be written in plain language, succinctly presenting the assigned topic in terms of the purpose of that topic in the overall context of the PEIS.

Task 9: The contractor shall meet with the cooperating agencies during the week of June 5, 2000 to discuss revisions to the PEIS submitted pursuant to Task 8 of the previously issued Work Assignment 04-07. As directed by the WAM at this meeting, the contractor shall revise the appropriate sections of the PEIS based upon the comments received at that meeting.

Task 10: A final working draft PEIS shall be delivered to the EPA WAM by July 7, 2000. Minor revisions, if necessary, shall be completed by the contractor and, as directed by the EPA WAM, a Camera Ready copy shall be submitted to the EPA WAM on or before August 31, 2000.

7. TRAVEL

The contractor shall travel to Federal, State, and local offices located in Pennsylvania, West Virginia, and other Appalachian coalfield states as directed by the EPA WAM. Up to three (3) trips are anticipated for completion of this Work Assignment. For planning purposes, trips shall consist of one (1) trip to Charleston/Nitro, WV to attend technical agency meetings and/or to collect data and information from OSM, WVDEP OMR/OWR, USGS, and/or mining company files; one (1) trip to State College, PA to attend technical meetings and/or to collect data and information from FWS files; and one (1) trip to Morgantown, WV to attend technical agency meetings and/or to collect data from WVU files.

The contractor shall follow the requirements of Subpart 31.2 of the FAR and the Federal regulations in incurring allowable travel costs under this Work Assignment, and correspondingly must at all times seek and obtain Government rates whenever available and observe current subsistence ceilings.

8. SCHEDULE OF DELIVERABLES

<u>Task</u>	<u>Deliverable</u>	<u>Schedule</u>
9	The contractor shall meet with the cooperating agencies in either Nitro, WV or Morgantown, WV to discuss revisions to the working draft PEIS.	Week of June 5, 2000
10	The contractor shall deliver a final draft copy of the PEIS to the EPA WAM. A Camera Ready Copy incorporating final revisions will be prepared as directed by the EPA WAM.	Final draft PEIS to be submitted by July 7, 2000 with possible minor revisions to be completed on or before August 31, 2000 as directed by the EPA WAM.

For planning purposes, please provide a cost estimate for the total Work Assignment, segregating costs associated under the period covered by this Work Assignment.

9. REPORTING REQUIREMENTS

The Contractor shall contact the Project Officer by telephone to discuss any problems that may adversely affect the work on this Work Assignment. Within five calendar days, the contractor shall follow the phone call with a brief written explanation of the problem, including any actions already taken, and/or recommended solutions to correct the problem.